UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,775	03/19/2004	Kathy Maida-Smith	MSC-238	7785

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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

EXAMINER
MIZRAHI, DIANE D

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/804,775	MAIDA-SMITH ET AL.
	Examiner	**Art Unit**	
	Diane Mizrahi	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 July 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed   July 3, 2007 have been fully considered but they are not

persuasive.

Based on Applicant's newly submitted remarks, Applicant has not chosen not to

amendment the claims but has argued the prior art made of record. Examiner has reviewed

Applicant' arguments, but maintains that the examiner disagrees with Applicant.

Following KSR direction as following: "SUPREME COURT OF THE UNITED

STATES No. 04–1350 KSR INTERNATIONAL CO., PETITIONER v. TELEFLEX INC. ET

AL. ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE

FEDERAL CIRCUIT [April 30, 2007], (page 2-3 of the court opinion) Following Graham v. John Deere

Co. of Kansas City, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language

of § 103, language itself based on the logic of the earlier decision in Hotchkiss v. Greenwood, 11 How.

248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

> "Under § 103, the scope and content of the prior art are to be determined; differences between the
> prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent
> art resolved. Against this background the obviousness or nonobviousness of the subject matter is
> determined. Such secondary considerations as commercial success, long felt but unsolved needs,
> failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of
> the subject matter sought to be patented." Id., at 17–18.

While the sequence of these questions might be reordered in any particular case, the factors continue
to define the inquiry that controls. If a court, or patent examiner, conducts this analysis and concludes the
claimed subject matter was obvious, the claim is invalid under § 103. Seeking to resolve the question of
obviousness with more uniformity and consistency, the Court of Appeals for the Federal Circuit has
employed an approach referred to by the parties as the "teaching, suggestion, or motivation" test (TSM
test), under which a patent claim is only proved obvious if "some motivation or suggestion to combine
the prior art teachings" can be found in the prior art, the nature of the problem, or the knowledge of a
person having ordinary skill in the art. See, e.g., Al-Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–

1324 (CA Fed. 1999). KSR challenges that test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290 (CA Fed. 2005). Because the Court of Appeals addressed the question of obviousness in a manner contrary to §103 and our precedents, we granted certiorari, 547 U. S ___ (2006). We now reverse.

Using the broadest reasonable interpretation, and cites evidences above, the Examiner has found that the combination Kouchi et al. (U.S. Patent# 6,023,694 and Kouchi hereinafter) in view of Kennelly et al. (U.S. Patent# 6, 101,539 and Kennelly hereinafter) teaches Applicant's claimed invention.

Thus the examiner has established "some motivation or suggestion to combine the prior art teachings" can be found in the prior art, the nature of the problem, or the knowledge of a person having ordinary skill in the art. See, e.g., Al-Site Corp. v. VSI Int'l, Inc., 174 F. 3d 1308, 1323–1324 (CA Fed. 1999). KSR challenges that test, or at least its application in this case. See 119 Fed. Appx. 282, 286–290 (CA Fed. 2005).

Therefore the Examiner respectfully maintains the rejection of claims 1-26 at least at this time based on the Office action dated 04-04-2007 and all the above evidences. See office action below as stated in the office action of 4-4-07:

Claim Rejections - 35 USC. 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or

composition of matter or any new and useful improvement thereof, may obtain a patent

therefore, subject to the conditions and requirements of this title.

Claims 14, 23 and 19-26 are rejected under 35 U.S.C. 101 because the claims are directed

to a non-statutory subject matter, specifically, the claims are not directed towards the final result

that is "useful, tangible and concrete. See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02

and Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557). The decisions state to be eligible for patent

protection, the claimed invention as a whole must accomplish a practical application. A claim

limited to a machine or manufacture, which has a practical application, is statutory. Alappat, 33

F.3d at 1544, 31 USPQ2d at 1557). That is, it must produce a "useful, concrete and tangible

result". The purpose of this requirement is to limit patent protection to inventions that possess a

certain level of "real world" value as opposed to subject matter that represents nothing more than

an idea or concept, or is simply a starting point for future investigation or research (Brenner v.

Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96 (1966); In re Fisher, 421 F.3d 1365, 76

USPQ 2d 1255 (Fed. Cir. 2005); In re Ziegler, 992 F.2d 1197, 1200-03, 26 USPQ 2d 1600,

1603-06(Fed. Cir. 1993).

Regarding Claims 14 and 23, Applicant recites conditional limitations for producing

results, such as the claimed, "if the data matches..." such that the condition is not met, the claims

will generate no useful, concrete, and tangible results. The result of the claimed, "modifying" is

conditional and will take place only the claimed, "if the data matches...". There appears to be no

generating or production of any useful, concrete, and tangible results. Regarding Claim 19, there

appears to be no tangible result in the claimed, "collecting... accessing.., applying.., storing .... ".

Examiner recommends that to satisfy the 101 rejection, that the claims must produce a real-world

result. Benson, 409 U.S. at 71-72, 175 USPQ at 676- 77.

Claims 20-26 are dependent claims and rejected under the same reasons as claim 19.

Examiner recommends that to satisfy the 101 rejection, and to be "useful", the claim must satisfy

the utility requirement thus the invention has to be specific, substantial and credible. (MPEP

2107 and In re Fisher, 421 F.3d 1365, 76 USPQ 2d 1255 (Fed. Cir. 2005); the claims must

produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77; and that the result

that can be substantially repeatable or must substantially produce the same result again. In re

Swartz, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000). Examiner recommends

Applicant to amend the claims without adding any new matter to the originally filed

specification.

Claim Rejections- 35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or
described as set forth in section 102 of this title, if the differences between the subject matter
sought to be patented and the prior art are such that the subject matter as a whole would have
been obvious at the time the invention was made to a person having ordinary skill in the art to
which said subject matter pertains. Patentability shall not be negatived by the manner in which
the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouchi et al.

(U.S. Patent# 6,023,694 and Kouchi hereinafter) in view of Kennelly et al. (U.S. Patent#

6,101,539 and Kennelly hereinafter).

Regarding Claims 1-2, 5,7 and 19 Kouchi teaches a method for compiling parser scripts

each corresponding to the structure of security data received from a network component

comprising the steps of: a) identifying sets of data categories (Abstract), each set corresponding

to security data (col 22, ines 23-52) received from one of a plurality of network components

(Figure 13, databases 1302a-c); b) constructing database record definitions, each defining a

record subdivided in accordance with one of the sets of data categories (col 16, lines 64-67 to col

17, lines 1-5).

Kouchi does not expressly teach writing parser scripts that receive security data from the

network components and output records, each record corresponding to one of the record

definitions and storing said parser scripts.

Kennelly teaches writing parser scripts that receive security data from the network

components and output records, each record corresponding to one of the record definitions and

storing said parser scripts (col 6, lines 40-56).

It would have been obvious to a person of ordinary skill in the art at the time of

Applicant's invention to modify the teachings of Kouchi with the teachings of Kennelly to

include the claimed, "writing parser scripts that receive security data from the network

components and output records, each record corresponding to one of the record

definitions and storing said parser scripts "with the motivation to allow the users with different

privileges access to different functions of the computer system (Kennelly, col 1, lines 20-34).

Regarding Claims 3-4, the limitations of these claims are similar in scope to the rejected claims.

Kouchi does not expressly teach inserting parser scripts into tables.

Kennelly teaches inserting parser scripts into tables (i.e. parses data files based on attributes to construct management objects)(col, lines 46-48) (see also Kennelly which reads on parsing scripts such that scripting parser 38 is a scripting engine that uses a scripting language (referred to below as "noc.sub.-- tags") that converts embedded scripting from HTML pages (hypertext mark-up language) into HTML for the browser. The final HTML that is sent to the browser may contain data that was retrieved from objects in the object manager 36) (col 6, lines 34-67).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Kouchi with the teachings of Kennelly to include the claimed, "inserting parser scripts into tables "with the motivation to allow the users with different privileges access to different functions of the computer system (Kennelly, col 1, lines 20-34).

Regarding Claim 6, Kouchi does not expressly teach Management Information Base (MIB). Kennelly teaches Management Information Base (MIB)(see publication listings).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Kouchi with the teachings of Kennelly to include the claimed, "Management Information Base (MIB)" with the motivation to allow the

users with different privileges access to different functions of the computer system (Kennelly, col 1, lines 20-34).

Regarding Claim 8, the limitations of these claims are similar in scope to the rejected claims above.

Kouchi does not expressly teach firewall. Kennelly teaches firewall (i.e. reads on using the Internet)(col 2, lines 52-62).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Kouchi with the teachings of Kennelly to include the claimed, "firewall" with the motivation to allow the users with different privileges access to different functions of the computer system (Kennelly, col 1, lines 20-34).

The rejection of Claims 9-10, respectively, are fully incorporated and are similarly rejected along the same rationale above.

Kouchi does not expressly teach third network component. Kennelly teaches third network component (i.e. Lan) (col 3, lines 18-41).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Kouchi with the teachings of Kennelly to include the claimed, "third network component" with the motivation to allow the users with different privileges access to different functions of the computer system (Kennelly, col 1, lines 20-34).

The rejection of Claims 11-12, are fully incorporated and are similarly rejected along the same rationale above. In addition, Kouchi teaches data queries (col 1, lines 56-66).

The rejection of Claims 13-18 and 20-26, respectively, are fully incorporated and are similarly rejected along the same rationale above.

Examiner maintains that writing parser scripts is clearly taught by Kennelly as (see also Kennelly which reads on parsing scripts such that scripting parser 38 is a scripting engine that uses a scripting language (referred to below as "noc.sub.-- tags") that converts embedded scripting from HTML pages (hypertext mark-up language) into HTML for the browser. The final HTML that is sent to the browser may contain data that was retrieved from objects in the object manager 36) (col 6, lines 34-67) and receiving security data reads on embedded data which is data that can include any data including security data (col 6, lines 34-67).

Double Patenting

The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 29 USPQ2d 2010 (Fed. Cir. 1993). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application

or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d). Effective

January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A

terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-26 are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-18 and 27-28,

respectively of copending Application No. 200560171969. Although the conflicting claims are

not identical, they are not patentably distinct from each other because they are substantially

similar in scope and they use the same wording. This is a provisional obviousness-type double

patenting rejection because the conflicting claims have not in fact been patented.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of

the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Diane Mizrahi
Diane.Mizrahi@USPTO.gov
Primary Patent Examiner
Technology Center 2100

Sept 2, 2007